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No. 1096

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# In the Supreme Court of the United States

OCTOBER TERM, 1967

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WILLIAM HORACE ROBINSON, PETITIONER

*v.*

UNITED STATES OF AMERICA

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*ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT*

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## MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

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ERWIN N. GRISWOLD,
*Solicitor General,*

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*Washington, D. C. 20530.*

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## MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

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Petitioner was tried in the United States District Court for the Southern District of Ohio and convicted on two counts of unlawfully causing the interstate transportation of forged securities, in violation of 18 U.S.C. 2314.[1] He was sentenced to imprisonment for five years on each count, the terms to run consecutively. The court of appeals affirmed *per curiam* (Pet. App. A).

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[1] Count 3, charging the unlawful transportation of a stolen motor vehicle, was dismissed during trial.

The evidence (the sufficiency of which is not challenged) showed that in February 1966, using false identification, petitioner cashed two forged checks at the Netherland-Hilton Hotel in Cincinnati, Ohio (Tr. 9-20). Both checks were drawn on a bank in West Monroe, Louisiana, and both were accordingly forwarded through the normal channels of interstate commerce to the bank in West Monroe, where they were dishonored (R. 7A-7B; Tr. 4-5).

Petitioner's sole contention is that it is not a federal crime to "cause" the interstate transportation of forged securities unless the defendant himself physically transports them. This argument has no merit. It is clear that the reference to persons "causing" the interstate transportation of forged securities was deleted from the statute (18 U.S.C. 2314) in the 1948 revision of the Criminal Code only because Section 2(b) of the Code provided that one who causes an act to be done which, if performed directly, would be illegal may be punished as a "principal." See the Reviser's Notes to Sections 2 and 2314 of Title 18. Although in adding another offense to paragraph 2 of Section 2314 in 1956, Congress included the word "causes", there is no indication in the relevant legislative history that Congress intended by its inaction with respect to the remaining paragraphs to confine them to personal transportation. There was certainly no suggestion that Congress sought to render 18 U.S.C. 2(b) inapplicable to previously defined offenses.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
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BEATRICE ROSENBERG,
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